

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi



United States of America

v.

MARVES FAIRLEY

Case No.

2:19 mj 27 -MTP

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 16, 2019 in the county of Jefferson Davis in the
Southern District of Mississippi, the defendant(s) violated:

Code Section

Offense Description

Title 18, United States Code,
 Section 922(g)(1)

Possession of a Firearm by a Convicted Felon

This criminal complaint is based on these facts:

See attached affidavit of ATF Special Agent Michael Knoll.

☒ Continued on the attached sheet.

Complainant's signature

Michael S. Knoll, Special Agent, ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: 11/13/2019

Judge's signature

City and state: Hattiesburg, Mississippi

Honorable Michael T. Parker, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, Michael S. Knoll, being duly sworn and deposed, state the following:

INTRODUCTION

1. I make this affidavit in support of obtaining a Criminal Complaint and Arrest Warrant charging **Marves FAIRLEY** with a violation of Title 18, United States Code, Section 922(g)(1): Possession of a Firearm by a Convicted Felon.

2. I have been employed as a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) since March 24, 2002. Prior to service with ATF, I was employed as a Border Patrol Agent with the United States Border Patrol. I am a graduate of the Federal Law Enforcement Training Center Criminal Investigator Training Program, ATF New Professional Training, and the United States Border Patrol Academy. I am a 1996 graduate of Southeastern Louisiana University with a Bachelor of Arts degree in Criminal Justice. As an ATF Special Agent, I am empowered to investigate violations of Federal Firearms, Arson, Explosive, and Drug Laws. During my tenure with ATF I have been involved in various capacities with numerous investigations involving the possession and use of firearms by convicted felons and possession of narcotics for both personal use, intent to distribute, manufacturing, and sale. Based upon my own personal knowledge and information I have received from officers and agents of the Mississippi Bureau of Narcotics and the Bureau of Alcohol, Tobacco, Firearms and Explosives, I am aware of the following facts.

3. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all my knowledge about this matter. The facts set forth in this affidavit are based on my own personal knowledge, discussions I have had with other law enforcement officers, witness interviews, and my review of reports, records, and other evidence.

STATEMENT OF PROBABLE CAUSE

4. The United States is investigating an incident of unlawful possession of a firearm by a convicted felon, in violation of Title 18, United States Code, Section 922(g)(1).

5. On September 5, 2019, the Grand Jury of the Circuit Court of Jefferson Davis County, Mississippi issued a felony indictment, charging **Marves FAIRLEY**, for Sale of a Controlled Substance and Conspiracy to Sale a Controlled Substance, Cause Number 33:19-cr-41-cm.

6. On September 5, 2019, the Grand Jury of the Circuit Court of Jefferson Davis County, Mississippi issued a felony indictment, charging Deon Devon Fairley, **Marves FAIRLEY's** brother, for: (i) Sale of a Controlled Substance, Cause Number 33:19-cr-53-cm; (ii) Sale of a Controlled Substance and Conspiracy to Sale a Controlled Substance, Cause Number 33:19-cr-54-cm; and (iii) Sale of a Controlled Substance, Cause Number 33:19-cr-55-cm.

7. Following the issuances of felony indictments, Capiases Instantaner were issued by the Jefferson Davis County Circuit Court for brothers **Marves FAIRLEY** and Deon Fairley.

8. On October 16, 2019, agents with the Mississippi Bureau of Narcotics and the United States Marshal's Service Fugitive Task Force attempted to serve the capiases to both **Marves FAIRLEY** and Deon Fairley at **Marves FAIRLEY's** home, located at 266 Choctaw Road, Carson, Mississippi 39427. This location is in Jefferson Davis County, which is located in the Eastern Division of the Southern District of Mississippi. This property also contains a detachable garage with a finished guest/day room. Law enforcement intelligence revealed that Deon Fairley did not reside at **Marves FAIRLEY's** home, but surveillance previously observed Deon Fairley to be at **Marves FAIRLEY's** home within days of the attempted capias service.

9. Upon law enforcement making its presence known via emergency lights activation at this residence, as well as agents knocking and announcing their presence, **Marves FAIRLEY**

opened the door. He was immediately taken into police custody. Agents then entered the home with the intent to locate Deon Fairley, but he was not located. Deon Fairley did later arrive at the home while agents were present, but fled when he observed police presence. He was not apprehended.

10. Upon making entry into **Marves FAIRLEY's** home and property, agents observed an overwhelming odor of marijuana emitting from within the detached guest/day room. Further, agents observed approximately one (1) gram of marijuana on the floor in the guest/day room. The guest room was occupied by Kevin Shipp. Shipp possessed approximately one half gram of marijuana within his pants pocket.

11. Agents who made entry into **Marves FAIRLEY's** bedroom observed in plain view a digital scale, marijuana, a large sum of bulk United States currency, and a pistol. The pistol and currency were located on the nightstand next to the bed. Christine Downs was found by agents in **Marves FAIRLEY's** bedroom. The firearm was located on a bedside nightstand next to the bed in the master bedroom. Agents advised that **Marves FAIRLEY's** clothing and personal items were in the bedroom.

12. Upon clearing the property for all occupants, the property was secured and a search warrant was obtained to search the home and property.

13. Approximately 934 grams of marijuana were located in the detached guest/day room near the entry door. The bulk marijuana was located inside of a brown shoulder bag. There were two (2) other similar brown bags lying on the floor next to the bag that contained the bulk marijuana. A bathroom scale, located near the bulk marijuana, was identified and photographed. Marijuana residue was found on top of the bathroom scale. Further, two (2) smaller digital scales and additional clear zip-lock style bags were located on a shelf within this

same room. Shipp stated, at that time, that the marijuana did not belong to him. He advised that he had only spent the night in the room and did not reside with **Marves FAIRLEY**.

14. During a post-*Miranda* interview of Shipp, which occurred at the Jefferson Davis County Jail, Shipp advised that he brought all of the marijuana found in the guest/day room to **Marves FAIRLEY's** home several days prior. He further advised that the digital scales found in the guest/day room were not his and were already there when he arrived. Shipp also denied that any contraband found within **Marves FAIRLEY's** home was his and stated he was not aware of any contraband found within the home.

15. Upon examination, the firearm recovered from **Marves FAIRLEY's** bedroom was identified as a Smith and Wesson .40 caliber pistol, model SD40VE, serial number FZV6906. It was loaded with fourteen (14) rounds of ammunition. On October 16, 2019, SA Michael Knoll spoke with ATF Special Agent Edwin Robinson, an interstate nexus examiner, and based upon his training and experience the above mentioned Smith and Wesson .40 caliber pistol is a firearm and is not manufactured in the State of Mississippi. Therefore, this firearm would have moved in or affected at least interstate commerce in order to now be physically located within the State of Mississippi.

16. On October 18, 2019, Christine Downs provided a statement to agents. Downs stated that she did not provide the firearm to **Marves FAIRLEY**, nor was she aware of its existence.

17. On October 21, 2019, agents conducted a post-*Miranda*, recorded interview with **Marves FAIRLEY**. **Marves FAIRLEY** admitted to knowingly possessing the firearm. He stated he did not obtain the firearm from Downs. He provided agents with the name of the person from whom he obtained it. He further stated the firearm was in his home since either

October 13th or October 14th, 2019. **Marves FAIRLEY** acknowledged his status as a convicted felon.

18. On August 18, 2011, **Marves FAIRLEY** pleaded guilty to Possession of a Controlled Substance with Intent to Distribute in the Forrest County Circuit Court, cause number 10-442CR. He was sentenced to serve sixteen (16) years in the custody of the Mississippi Department of Corrections. This is a felony offense and **Marves FAIRLEY** is a person who has been convicted of an offense for which the maximum imprisonment is one year or more; in other words, he is a felon.

19. Based on the foregoing facts and circumstances, your affiant believes probable cause exist that **Marves FAIRLEY** did violate federal firearms laws, in that he violated Title 18, United States Code, Section 922(g)(1): Possession of a Firearm by a Convicted Felon.

Further your affiant sayeth not.



Michael Knoll, Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

Sworn and subscribed by me this 13th day of November, 2019.



United States Magistrate Judge